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MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,574,472	:	DECISION ON REQUEST
Biby et al.	:	FOR
Issue Date: August 11, 2009	:	RECONSIDERATION OF
Application No. 10/670,486	:	PATENT TERM ADJUSTMENT
Filed: September 25, 2003	:	and
Atty Docket No. 199-0018US-D	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 8, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, six hundred and eighty-nine (1689) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand six hundred sixty-four (1664)** days.

The over three year period beginning on September 26, 2006 and ending on August 11, 2009 is 1051 days. However, the time consumed by appellate review, beginning on the day the Notice of Appeal was filed (October 9, 2008) and ending on the date on which the Notice of Allowance was mailed (March 6, 2009), is excluded from the period of B-delay. This period is 149 days. As such, the over three year period is (1051 - 149) 902 days.


Moreover, there are 2 periods of overlap. 266 days of "A" delay associated with the mailing of the Office action on November 14, 2007 and 25 days of "A" delay associated with the mailing of the notice of allowance on March 6, 2009 overlap with the "B" delay. Accordingly, the patent term adjustment is increased by 611 (902 - (266 + 25)) days for B delay to 1664 days.

It is noted that patentee's calculation fails to consider the 25 days of overlap discussed above.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, six hundred and sixty-four (1664) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,574,472 B2

DATED : August 11, 2009

DRAFT

INVENTOR(S) : Biby et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1053 days

Delete the phrase "by 1053 days" and insert – by 1664 days--